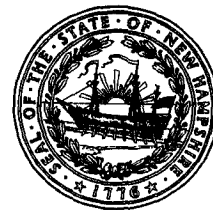




The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

December 6, 2005

North Haverhill Management Corp.  
Attn: Fred Oeschger  
444 East Main Street  
Newport, VT 05855

Re: Docket No. AF 05-040 – North Haverhill Management Corp.

Dear Mr. Oeschger:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

**COPY**

Michael P. Sciafani,  
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division  
Gretchen R. Hamel, Administrator, DES Legal Unit  
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit  
DES Public Information Officer  
Lynn Woodard, DES WMD  
Tom Beaulieu, DES WMD  
Susan Hanamoto, DES WMD

North Haverhill Management Corp.  
Attn: Fred Oeschger  
444 East Main Street  
Newport, VT 05855

Re: Clark Pond Road, Haverhill, NH  
UST ID #0-112125

**ADMINISTRATIVE FINE**  
**No. AF 05-040**

**MOTION TO ACCEPT SETTLEMENT AGREEMENT**

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and North Haverhill Management Corp., parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. North Haverhill Management Corp. ("NHMC") is the registered facility owner of two underground storage tanks ("UST") at the North Haverhill Management Corp. facility ("the Facility"), further identified as UST # 0-112125, located on real property at Clark Pond Road, Haverhill, NH ("the Property"). Fredric Oeschger signed the Registration for Underground Storage Tank Systems for the Facility, dated September 19, 2005, as the owner.
3. On May 20, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-040 ("the Notice") to NHMC seeking fines totaling \$4,600 for violations of New Hampshire Administrative Rules Part Env-Wm 1401.
4. The Notice cited NHMC for violating Env-Wm 1401.07(c) by failing to display and permanently affix a permit at the Facility. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.
5. The Notice further cited NHMC for violating Env-Wm 1401.11(a) by failing to maintain accurate stock inventory records for Tanks 5 and 6 in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.05(a) the Division sought a fine of \$1,000.
6. The Notice further cited NHMC for violating Env-Wm 1401.21(l) by failing to display and permanently affix a certificate bearing the Facility's tank information. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.
7. The Notice further cited NHMC for violating Env-Wm 1401.24(a) by failing to have the piping of Tank 6 secondarily contained. Pursuant to Env-C 607.03(h) the Division sought a fine

of \$1,000.

8. The Notice further cited NHMC for violating Env-Wm 1401.25(d) by failing to properly install and maintain overfill protection equipment on Tanks 5 and 6. Pursuant to Env-C 607.05(j) the Division sought a fine of \$400.

9. The Notice further cited NHMC for violating Env-Wm 1401.31(a) by failing to maintain leak monitoring equipment in good working order at all times to continuously perform their original design function for Tanks 5 and 6 and by failing to perform the annual test of the leak monitor for proper operation. Pursuant to Env-C 607.03(m) the Division sought a fine of \$2,000.

10. In order to settle this matter, the Division and NHMC have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.

11. Of the proposed fine, in the amount of \$4,600, 20% or \$920 shall be suspended due to this being a one-time unintentional violation. An additional 20% or \$920 shall be suspended due to NHMC's good faith effort to return this Facility to compliance. An additional 20% or \$920 shall be suspended due to NHMC's history of compliance at this Facility.

12. The suspended portion of the proposed fine, in the amount of \$2,760 is contingent upon NHMC maintaining the subject UST facility in compliance with Env-Wm 1401 for a period of two years from the date of the execution of this Agreement. If NHMC fails to maintain compliance during the two-year period, the suspended portion of the fine, in the amount of \$2,760 shall become due and payable immediately. If NHMC maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

13. NHMC agrees to pay the remaining \$1,840 upon execution of this Agreement by NHMC.

14. Payment under Paragraph #13 and any payment that becomes due pursuant to Paragraph #12 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit  
Attention: Michael Sclafani, Legal Assistant  
P.O. Box 95  
Concord, NH 03302-0095

15. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

16. By executing this Agreement, NHMC waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

17. The effective date of this Agreement will be the date on which it is signed by an authorized representative of NHMC, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

18. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.


WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

North Haverhill Management Corp.

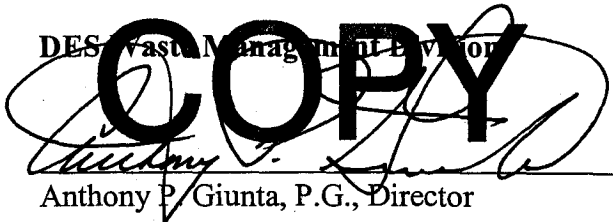
Date

11-18-05

  
Fred Oeschger, President  
Duly Authorized

Date

11/28/05

DES Waste Management Division  
  
Anthony P. Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 30<sup>th</sup> day of November, 2005.

  
Michael P. Nolin, Commissioner  
Department of Environmental Services